



California Fair Political Practices Commission

March 6, 1989

Michael W. Huse
City Manager
City of Solana Beach
380 Stevens Ave., Suite 120
Solana Beach, CA 92075

Re: Your Request for Informal Assistance
Our File No. I-89-069

Dear Mr. Huse:

You have requested advice concerning the use of city business cards in connection with a campaign solicitation. Because your request is more of a general inquiry than a request for advice related to a specific incident, we treat your request as one for informal assistance.^{1/}

This letter does not address the past conduct of any city officials. In addition, we do not provide advice concerning laws other than the Political Reform Act. Please consult your city attorney regarding restrictions on use of public funds in political campaigns. (See Penal Code Section 424; People v. Battin (1978) 77 Cal. App. 3d 635; People v. Nathanson (1955) 134 Cal. App. 2d 43.)

QUESTION

May a councilmember use city business cards in connection with a campaign solicitation?

^{1/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

CONCLUSION

Use of City business cards in connection with a campaign solicitation may violate the prohibition against mass mailings contained in the Political Reform Act (the "Act").^{2/}

ANALYSIS

Government Code Section 89001 prohibits mass mailings at public expense. Section 82041.5 defines a mass mailing as more than 200 substantially similar pieces of mail. A mass mailing is sent at public expense if any of the costs of design, production, printing or distribution is paid for with public moneys. (Regulation 18901(a), copy enclosed.)

Mass mailings are not prohibited by Section 89001 if they contain only information or material sent in response to unsolicited specific requests contained in written correspondence or oral inquiries received by the elected officer or by an agency with which the officer is affiliated. (Regulation 18901(b).)

Mass mailings are prohibited, however, under the following circumstances:

(1) When the name of the elected officer or his or her photograph appears on the document and the elected officer exercises direction or control over the content, production or distribution of the document, or the document is sent at the request or suggestion of the elected officer or his or her agent; or

(2) When the document is signed by, or is designated as being from the elected officer or his or her office; or

(3) When the elected officer is affiliated with the agency which produces or distributes the document and the elected officer is featured in the document or the name, office or other reference to the elected officer or his or her photograph appears on the document and the document is prepared or sent in cooperation, consultation, coordination or concert with the elected officer.

Regulation 18901(c).

^{2/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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For purposes of the above statutory requirements, an elected officer is "featured" in a mass mailing if he or she is singled out for attention of the reader by use of his or her signature, inclusion of any photograph, or the manner of display of his or her name or office in the layout of the document such as by headlines, type size, or typeface. (Regulation 18901(c)(2)(B).) An elected officer is "affiliated with an agency" if he or she is a member, officer, or employee of the agency or a subunit such as a committee, or has supervisory control over the agency, or appoints one or more members of the agency. (Regulation 18901(c)(2)(C).)


Moreover, a mass mailing is not prohibited if it meets all of the following criteria: (1) The stationery, forms and envelopes used for the mailing are the standard stationery, forms and envelopes of the agency or committee of the agency; and (2) The name of an elected officer who is affiliated with the agency or committee appears in the standard letter head or logotype of the stationery, forms or envelopes of the agency, a committee of the agency, or the elected official and the mass mailing is not otherwise prohibited. Letterhead or logotype, as used in this context, includes a listing of agency or committee officials or members, in which all who are listed appear in the same typeface and type size and location in the layout of the mass mailing.

Pursuant to the above statutory provisions and applicable interpretative regulations, the mailing of city business cards in connection with a campaign solicitation by a councilmember would violate the prohibition of Government Code Section 89001 if the mailing consisted of more than 200 business cards in any one calendar month and if the mailing were done at public expense or if any of the costs of design, production, or printing were paid for with public moneys.

Please do not hesitate to call me at (916) 322-5901 if you have any further questions.

Sincerely,

Diane M. Griffiths
General Counsel



By: Blanca M. Breeze
Counsel, Legal Division

DMG:BMB:ld

Enclosure



CITY OF SOLANA BEACH

380 STEVENS AVENUE • SUITE 120 • SOLANA BEACH, CALIFORNIA 92075 • (619) 755-2998

January 30, 1989

FEB 2 8 41 AM '89

Kathryn E. Donovan
Counsel, Legal Division
California Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804-0807

Dear Ms. Donovan:

As we discussed on the telephone (January 26, 1989), I would like to rephrase my previous letter to the Commission regarding the use of city business cards.

Would it be a violation of the Political Reform Act if a councilmember used city business cards in connection with a campaign solicitation?

Thank you for your assistance in this matter and please call if you have any questions.

Sincerely,

MICHAEL W. HUSE
City Manager

MWH/jp



California Fair Political Practices Commission

January 10, 1989

Michael W. Huse
City Manager
City of Solana Beach
390 Stevens Avenue, Suite 120
Solana Beach, CA 92075

Re: Your Request for Informal
Assistance
Our File No. I-88-486

Dear Mr. Huse:

We have received your letter requesting the Commission to review and comment on a councilmember's use of city business cards in connection with a campaign solicitation. Your question concerns past conduct; therefore, we are unable to provide you with advice concerning this situation. (Regulation 18329(c), copy enclosed.) Complaints concerning possible violations of the Political Reform Act are handled by the Commission's Enforcement Division. Please contact me at (916) 322-5901 if you wish your letter to be considered a complaint and referred to the Enforcement Division.

Sincerely,

Diane M. Griffiths
General Counsel

Kathryn E. Donovan

By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:plh

Enclosure



CITY OF SOLANA BEACH .FPPC

380 STEVENS AVENUE • SUITE 120 • SOLANA BEACH, CALIFORNIA 92075 • (619) 755-2998

DEC 14 3 40 PM '88

December 9, 1988

Dianne M. Griffiths
General Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Dear Ms. Griffiths:

During the recent election campaign an incident occurred that warrants review by the Fair Political Practices Commission.

An incumbent, Councilmember Marion Dodson, placed her city business card in a letter distributed to friends and acquaintances soliciting support for her candidacy. Councilmember Dodson sought the advice of the City Attorney prior to mailing the letters, but apparently there was a misunderstanding regarding the opinion rendered by legal counsel.

The City Attorney felt he was responding to a question regarding the use of business cards in conjunction with general correspondence, not something related to a campaign solicitation. Councilmember Dodson felt the direction given included campaign material.

Eventually, the appropriateness of the action was brought to the attention of city staff and after conferring with another city attorney, the councilmember was asked to reimburse the city for the cost of the cards used in the mailer. In addition, the councilmember was advised that the cards should not be used in the manner described above. The amount of reimbursement totaled \$19.21 and represented payment for 200 cards. The latter was an estimate provided by Mrs. Dodson.

This inquiry is one of several associated with the November 8, 1988, election campaign that have been forwarded to the Commission from the City of Solana Beach for review and comment.

Thank you for your assistance and please call if you have any questions or desire further information.

Sincerely,

Michael W. Huse

MICHAEL W. HUSE
City Manager

jp



California Fair Political Practices Commission

February 7, 1989

Michael W. Huse
City Manager
City of Solana Beach
380 Stevens Avenue
Suite 120
Solana Beach, CA 92075

Re: Letter No. 89-069

Dear Mr. Huse:

Your letter requesting advice under the Political Reform Act was received on February 2, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Blanca Breeze an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, reading "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:ld



CITY OF SOLANA BEACH

380 STEVENS AVENUE • SUITE 120 • SOLANA BEACH, CALIFORNIA 92075 • (619) 755-2998

88-069

January 30, 1989

Feb 2 8 41 AM '89

Kathryn E. Donovan
Counsel, Legal Division
California Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804-0807

Dear Ms. Donovan:

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Would it be a violation of the Political Reform Act if a councilmember used city business cards in connection with a campaign solicitation?

Thank you for your assistance in this matter and please call if you have any questions.

Sincerely,

MICHAEL W. HUSE
City Manager

MWH/jp



TCS ENTERPRISES, INC.

Feb 3 9 24 AM '89

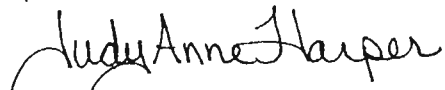
January 30, 1989

Ms. Sandra Taylor
Fair Political Practices Commission
428 "J" Street
Sacramento, CA 95814

Dear Ms. Taylor:

Per our telephone conversation today, will you please confirm in writing that if a Major Donor makes contributions directly to or expends funds at the behest of candidates or committees totaling less than \$10,000.00 in a calendar year, that the Major Donor has no filing obligations for that year. As we discussed, our company, TCS Enterprises, Inc. and its Chief Executive Officer, Tom C. Stickel, would like a letter confirming these facts for our files. Thank you.

Sincerely,



Judy Anne Harper
Vice President - Finance

JAH/jf